

**ASSEMBLY BILL**

**No. 124**

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**Introduced by Assembly Member Galgiani**  
(Coauthor: Senator Denham)

January 15, 2009

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An act to add Section 9723.3 to the Business and Professions Code, relating to cemeteries, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 124, as introduced, Galgiani. Cemeteries: temporary manager.

Existing law, the Cemetery Act, provides for the licensing and regulation of certain private cemeteries by the Cemetery and Funeral Bureau. Existing law requires all cemeteries for which a certificate of authority is required to be supervised by a licensed cemetery manager, and prohibits a person from engaging in the business of, acting as, or advertising as, a cemetery manager without a license from the bureau and without being employed, by, or a corporate officer of, a licensed cemetery.

This bill would, notwithstanding any other provision of law, authorize a court of competent jurisdiction, based upon the court's finding that a licensed cemetery manager has ceased to perform his or her duties due to a lapse, suspension, surrender, abandonment, or revocation of his or her license, to appoint a temporary manager to manage the property of, and certain services provided by, the licensed cemetery, as provided, for a limited term of 6 months or until a new licensed manager is hired. The bill would permit the court to authorize the payment of reasonable compensation for the temporary manager's services, to be paid by the trustees from available income from the cemetery's endowment care

fund, and, if appropriate, available income from the cemetery's special care funds, as provided.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 9723.3 is added to the Business and  
2 Professions Code, to read:

3 9723.3. (a) Notwithstanding any other provision of law, based  
4 upon a finding by a court of competent jurisdiction that a cemetery  
5 manager has ceased to perform his or her duties, as described in  
6 subdivision (a) of Section 9605.1, due to a lapse, suspension,  
7 surrender, abandonment, or revocation of his or her license, the  
8 court may appoint a temporary manager to manage the cemetery  
9 property and to service the prepaid interments of the licensed  
10 cemetery. The court shall appoint a licensed cemetery manager as  
11 the temporary manager.

12 (b) The appointed temporary manager shall have the same  
13 powers over the care and maintenance of the licensed cemetery as  
14 a licensed cemetery manager, as described in subdivision (a) of  
15 Section 9605.1. The temporary manager shall serve for a limited  
16 term not to exceed six months, or until a new licensed manager  
17 has been hired, at which time the court shall terminate appointment  
18 of the temporary manager.

19 (c) The court may authorize the payment of reasonable  
20 compensation for the temporary manager's services, which shall  
21 be paid by the trustees from available income from the cemetery's  
22 endowment care fund, and, if appropriate, from available income  
23 from the cemetery's special care funds. In exercising its discretion  
24 pursuant to this subdivision, the court shall give due consideration  
25 to the ability of the trust fund income to otherwise pay for care  
26 and maintenance of the cemetery.

27 SEC. 2. This act is an urgency statute necessary for the  
28 immediate preservation of the public peace, health, or safety within  
29 the meaning of Article IV of the Constitution and shall go into  
30 immediate effect. The facts constituting the necessity are:

1     In order to prevent the prolonged absence of management of  
2     certain private cemeteries, and to ensure the public health and  
3     safety of the communities in which those private cemeteries are  
4     located at the earliest possible time, it is necessary that this act  
5     take effect immediately.

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